



WEB COPY



C.M.A.No.389 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.389 of 2024

P.Srinivasan

...Appellant

Vs

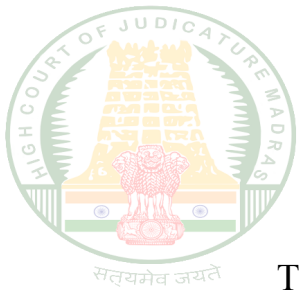
1.H.V.Abhishek
2.The Branch Manager,
New India Assurance Company Limited,
Opposite to New Bus Stand,
Perambalur.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in judgment and decree dated 12.10.2021 made in MCOP.No.203 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur by allowing this appeal.

For Appellant : Mr.S.P.Yuvaraj
For Respondent : Mr.R.Neethi Perumal for R2



C.M.A.No.389 of 2024

JUDGMENT

This Civil Miscellaneous Appeal has been filed, seeking to enhance the compensation awarded by the Tribunal vide judgment and decree dated 12.10.2021 in M.C.O.P.No.203 of 2017.

2. On 04.03.2017 at about 07.45 am, while the appellant/claimant was returning from the field in his two-wheeler bearing Registration No.TN-46-E-6991 near Thevaiyur Bus Stop, he stopped his two-wheeler at the left side of the road. At that time, 1st respondent's Lorry bearing Registration No.TN-09-BW-7947 came in a rash and negligent manner and dashed against the appellant, due to which, he sustained grievous injuries. The appellant/claimant filed a claim petition, seeking compensation of Rs.55,00,000/- before the Tribunal.

3. On consideration of both oral and documentary evidence, the Tribunal has awarded the compensation under the following heads:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	3,67,500
2	Transportation	40,000
3	Medical Bills	4,02,530
4	Extra Nourishment	20,000
5	Attender's Charges	20,000



WEB COPY



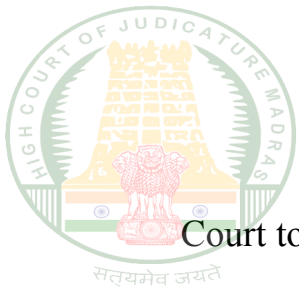
C.M.A.No.389 of 2024

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
6	Pain and Sufferings	50,000
7	Loss of Amenities	20,000
8	Damage to Cloth	1,000
	Total	9,21,030

4. Not being satisfied with the quantum of the compensation awarded by the Tribunal, the appellant has come forward with the present appeal.

5. The learned counsel would submit that the appellant had sustained fractures in right leg, thigh, below right knee and right hand and also multiple injuries all over his body and the Medical Officer, who examined the appellant, had assessed the permanent disability at 50%. However, while awarding the compensation, the Tribunal had only considered 25% as functional disability of the appellant and granted the compensation of Rs.3,67,500/- which is on lower side. Hence, he requests this Court to enhance the compensation awarded towards loss of income.

6. He would also contend that the appellant has to change the steel plates in his legs frequently. However, the Tribunal had failed to award the compensation towards future medical expenses and hence, he requests this



C.M.A.No.389 of 2024

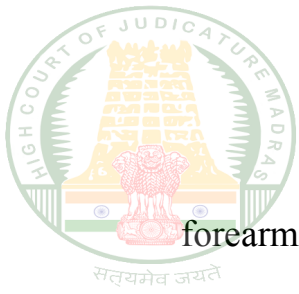
Court to award any reasonable amount towards the same.

WEB COPY

7. In reply, the learned counsel for the respondent would submit that considering the facts and circumstances of the case, the Tribunal had rightly awarded the compensation, which requires no interference and hence, he requests this Court to confirm the same.

8. Heard the learned counsel for the appellant and the respondents and also perused the documents available on records.

9. In the present case, there is no dispute with regard to the occurrence of accident and fastening the liability on the 2nd respondent/Assurance Company by the Tribunal. The only aspect that has to be decided is with regard to the quantum of compensation awarded by the Tribunal. The accident had occurred in the year 2017 and at the time of the accident, the deceased was aged about 42 years and was working as Agriculturist and Milk Vendor. Due to the said accident, the injured had sustained fractures of “compound grade 3A fracture, right distal tibia with bimalleolar fracture, right femur M/3 fracture, right



forearm both bones fracture U/3-M3 junction”. Further, pursuant to the direction of this Court, the appellant appeared in person before this Court and submitted that till date, he did not recover from the injuries sustained by him and he needs to change the steel plates in his legs frequently, due to which, he is unable to carry on his milk-vending business and agriculture work as before.

10. In the present case, considering the injuries sustained by the injured , this Court is of the view that the functional disability as 25% taken by the Tribunal is just and reasonable. However, the Tribunal had fixed only a sum of Rs.7,000/- as notional income of the injured, which is on the lower side. Hence, considering the year of accident and the age and avocation of the injured, this Court is inclined to fix a sum of Rs.10,000/- as notional income of the injured. Hence, by adding 25% towards future prospects, by applying '14' as multiplier and by taking 25% as function disability of the injured, the loss of income would be calculated as follows:

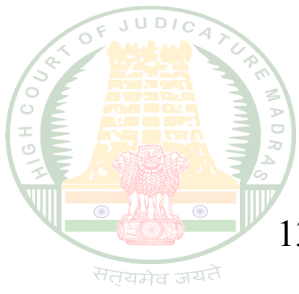
$$\begin{aligned} & \text{Rs.10,000/- (notional income) + Rs.2,500/- (25\% future prospects)} \\ & \quad * 12 \text{ (months)} * 14 \text{ (multiplier)} * 25/100 \text{ (functional disability)} \\ & \quad = \text{Rs.5,25,000/-} \end{aligned}$$



11. Further, it appears that no amount was awarded towards Future Medical Expenses. Hence, this Court is inclined to award a sum of Rs.50,000/- towards Future Medical Expenses since the appellant has to change the steel plate in his legs frequently. As regards all other heads, since the compensation awarded by the Tribunal appears to be just and fair, the same stands confirmed.

12. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Income	3,67,500	5,25,000
2	Transportation	40,000	40,000
3	Medical Bills	4,02,530	4,02,530
4	Extra Nourishment	20,000	20,000
5	Attender's Charges	20,000	20,000
6	Pain and Sufferings	50,000	50,000
7	Loss of Amenities	20,000	20,000
8	Damage to Cloth	1,000	1,000
9	Future Medical Expenses	Nil	50,000
	Total	9,21,030	11,28,530



C.M.A.No.389 of 2024

13. Therefore, the compensation awarded by the Tribunal is modified and enhanced from a sum of Rs.9,21,030/- to Rs.11,28,530/-. In all other aspects, the award of the Tribunal stands confirmed.

14. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.11,28,530/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.203 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur. Upon such deposit, the Tribunal is directed to transfer the award amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the date of deposit and receipt of the Bank details obtained from the claimant. No costs.

11.03.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
suk



WEB COPY



C.M.A.No.389 of 2024

KRISHNAN RAMASAMY,J.

suk

C.M.A.No.389 of 2024

11.03.2024